

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LUIS GALEGO, } Case No. 3:10-cv-00758-ECR-VPC
Plaintiff, }
vs. } ORDER
JOHN SCOTT, et al., }
Defendants. }

On March 30, 2011, Defendants filed a motion for summary judgment (#13). Subsequently on March 31, the Court entered an order (#16) calling Plaintiff's attention to the requirements of the *Klingele v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988), and *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998), cases in opposing the motion for summary judgment, including the need to file affidavits and other evidence to oppose the motion. The Court further ordered (#16) that Plaintiff's response to the motion was required to be filed within 21 days and Defendants' reply would be due 14 days after Plaintiff's response to the motion was filed.

Plaintiff failed to timely file a response to the Defendants' motion for summary judgment (#13) as required by our order (#16). On May 4, 2011, Magistrate Judge Cooke entered a further order (#20) extending the time for

1 Plaintiff to respond to the motion for summary judgment to Wednesday, May 18,
2 Plaintiff still failed to respond to the motion for summary judgment within
3 the extended time allowed by the Magistrate Judge's order (#20).

4 Months later on September 8, 2011, the Magistrate Judge filed her Report
5 and Recommendation (#26), recommending that Defendants' motion for
6 summary judgment (#13) be granted. Although Plaintiff never responded to the
7 motion, the Magistrate Judge carefully reviewed the record and rendered her
8 Report and Recommendation based on the merits of the action.

9 On September 15, 2011, Plaintiff filed motions (#27) and (#35) for
10 enlargement of time to file his opposition to the Defendants' motion for summary
11 judgment. Such motions were filed several months late, well beyond the time
12 within which such enlargement might have been sought. Plaintiff was duly
13 warned when his opposition to the motion was due and the time was extended in
14 May for the filing of the opposition. Plaintiff is too late.

15 On September 16, 2011, Plaintiff filed a motion (#28) for summary
16 judgment and motion to strike (#32). On September 19, 2011, Plaintiff filed a
17 motion (#29) for judgment on the pleadings and motion (#30) for summary
18 judgment. On September 20, 2011, Plaintiff filed a motion to dismiss (#33)
19 counterclaim. On September 22, 2011, Defendants filed a motion for extension
20 of time (#36) requesting that the Court grant them time to respond to these
21 motions by Plaintiff, if necessary, until after the Court rules on the Report and
22 Recommendation.

23 **THEREFORE, IT IS ORDERED** that Plaintiff's motion for enlargement of
24 time (#27) and (#35) treated as such are DENIED.

25 However, the motions for enlargement of time (#27) and (#35) were filed
26 within the 14 day period allowed by the Local Rules for filing objections to the
27 Magistrate Judge's Report and Recommendation. Defendants (#37) do not
28 oppose the motions of Plaintiff (#27) and (#35) as motions for enlargement of

1 time to file objections to the Report and Recommendation of the Magistrate
2 Judge (#26). The Court will therefore treat the motions (#27) and (#35) for this
3 purpose as motions for enlargement of time to file objections to the Magistrate
4 Judge's Report and Recommendation (#26) and on that basis,

5 IT IS ORDERED that Plaintiff shall have **14 days** from the date of entry of
6 this order within which to file objections to the Report and Recommendation
7 (#26) of the Magistrate Judge.

8 IT IS FURTHER ORDERED that Defendants' motion to extend time (#36)
9 is **GRANTED**. Therefore, pending the Court's decision on the Report and
10 Recommendation (#26) of the Magistrate Judge, briefing on Plaintiff's motions
11 (#28), (#29), (#30), (#32), and (#33) will be suspended, and Defendants need not
12 respond to these motions filed by the Plaintiff. If the Court approves the Report
13 and Recommendation of the Magistrate Judge (#26), all of the foregoing listed
14 motions will be rendered moot, and if the Court does not approve the Magistrate
15 Judge's Report and Recommendation (#26), the Court will by order set a new
16 briefing schedule with respect to the said motions.

17 Dated this 20th day of October 2011.

18
19
20
21
22
23
24
25
26
27
28


EDWARD C. REED, JR.
United States District Judge